

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
CIVIL FILE NO. 08-CV-6507 (JNE/JJG)**

Kevin Cole, as trustee for the next-of-kin of
Dean Cole, decedent,

Plaintiff,

vs.

**ORDER FOR DISTRIBUTION OF
WRONGFUL DEATH AWARD**

GGNSC Stillwater Greeley LLC, d/b/a
Golden LivingCenter Greeley, Golden Gate
National Senior Care LLC, GGNSC Equity
Holdings LLC, GGNSC Clinical Services
LLC, and GGNSC Administrative Services
LLC,

Defendants.

FINDINGS

1. Pursuant to Rule 144.01 of the Rules of Practice-District Courts, Kevin Cole has been appointed as trustee for the next-of-kin of Dean Cole by Order of the Washington County (Minnesota) District Court, filed July 2, 2007, Court File no. 82-C2-07-004249.

2. Pursuant Rule 144.05 of the General Rules of Practice—District Courts, the Trustee has filed with this Court a verified Petition and Application for the distribution of money recovered under Minn.Stat. § 573.02. Rule 144.05 provides that the Trustee’s Petition “shall be heard by the court in which the action was tried, or in the case of settlement, by the court in which the action was pending at the time of settlement.”

3. On 01/12/2009, the Trustee filed this law suit against the above-identified defendants in this Court.

4. On 05/25/2010, the Court granted the defendants’ motion to stay the action and

required the parties to submit the case to arbitration.

5. The arbitration was heard from October 4 through 6, 2010, with oral argument on October 7, 2010. The arbitration panel issued its order and award on November 4, 2010, which the Trustee has filed with his Petition. The arbitration panel determined a total award of \$222,634.00, which comprises the following:

- a. \$150,000.00 general damages;
- b. \$10,977.00 medical expenses paid;
- c. \$31,223.00 pre-award interest; and
- d. \$30,434.00 taxable costs.

6. The arbitration panel did not determine how the award is to be distributed among the surviving spouse and next-of-kin of the decedent, Dean Cole, who are:

NAME	DOB	RELATION	ADDRESS
Virginia Cole	07/21/1935	Spouse	2363 Gresham Av. N. Oakdale, MN 55128
Kevin Cole	05/01/1960	Son	1624 Rock Place Shakopee, MN 55379
Cheryl Stephenson	11/08/1957	Daughter	1194 - 290th Av. NW Isanti, MN 55040
Elaine Sparks	06/02/1936	Sister	6272 - 7th Street North Oakdale, MN 55128
Gary Cole	09/04/1939	Brother	2427 Holland Street San Mateo, CA 94403
Wayne Cole	04/17/1945	Brother	4285 Pilot Knob Road Eagan, MN 55122

Based upon all the files and records herein,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Trustee is hereby directed to distribute the proceeds of said settlement as follows:

- a. \$76,880.00 to The Attorneys for reasonable attorneys' fees, to be divided among The Attorneys as follows:
 - i. \$28,830.00 to the Kosieradzki Smith Law Firm, LLC;
 - ii. \$28,830.00 to the David Couch Law Firm;
 - iii. \$15,376.00 to the Sieben, Grose & Von Holtum law firm; and
 - iv. \$3,844.00 to Brian Brooks, Attorney at Law.
- b. \$30,375.00 the Kosieradzki Smith Law Firm, LLC, to reimburse its payment to the Briggs and Morgan, P.A. Trust Account on behalf of the arbitration panel for the panel's fees charged for their service in this Court-ordered arbitration.
- c. \$94,136.68 to The Attorneys to reimburse their reasonable expenses and disbursement incurred.
- d. Until such time as Medicare discloses the extent of its subrogation claim, \$7,370.20 to be held in the Kosieradzki Smith Law Firm, LLC IOLTA Account with Gateway Bank, Account #700015; Tax ID #75-1584132; thereafter, the subrogation/reimbursement interest will be paid pursuant to 42 C.F.R. § 411.26. After payment of the final Medicare claim, any balance of the funds held in trust shall be distributed to Virginia Cole.

2. The balance of the remaining proceeds (\$13,872.12) to be distributed entirely to Virginia Cole, plus any amount that may subsequently become available pursuant to Paragraphs 1.d, above.

3. This proposed Order relates to documents ECF #50 – 56.

Dated: 12-10-2010

BY THE COURT:

s/ Joan N. Ericksen

The Hon. Joan N. Ericksen

Judge of United States District Court